

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAURENCIO MARTINEZ QUINTERO,

Petitioner,

v.

TAMMY FOSS,

Respondent.

No. 2:20-cv-0200-TLN-CKD

ORDER

Petitioner is a state prisoner proceeding without counsel and in forma pauperis in this habeas corpus action filed pursuant to 28 U.S.C. § 2254. Pending before the court are petitioner's motion for summary judgment (ECF No. 52) and respondent's request to file an untimely response to the court's June 25, 2024 order to show cause (ECF No. 53). Respondent has also requested leave of court to file an untimely response to the third amended § 2254 petition within 60 days. This order resolves the pending motions and resets the briefing schedule for petitioner's third amended § 2254 application.

By order dated March 14, 2024, the stay of this case was lifted, and respondent was directed to file a response to the third amended petition within 60 days. ECF No. 49. Petitioner filed a notice indicating that the responsive deadline had expired without an answer being filed by respondent. ECF No. 50. As a result, the court ordered respondent to show cause why sanctions should not be imposed for failing to comply with a court order. ECF No. 51. Finally, on July 17,

1 2024, respondent filed a response indicating that their failure to comply with the briefing schedule  
2 in this case was due to a mistaken belief that other members of the Attorney General's Office  
3 were monitoring and handling this case. ECF No. 53 at 1. Respondent "has taken immediate  
4 corrective action to ensure this does not happen again... [and] requests that the Court discharge  
5 the order to show cause. ECF No. 53 at 1. After reviewing the claims in the third amended  
6 § 2254 petition, respondent requests an extension of 60 days to obtain relevant state court  
7 documents and file a response. ECF No. 53 at 2.

8 Based on the corrective action taken by respondent to ensure that no future calendaring  
9 errors occur in this case, the court will discharge the order to show cause issued on June 25, 2024.  
10 For good cause shown, respondent's request for an extension of time to file a response to the third  
11 amended § 2254 petition is granted. However, the court will look unfavorably on any future  
12 requests for an extension of time by respondent in this case.

13 Petitioner's motion for summary judgment is based on respondent's failure to file a  
14 timely response to his pending amended habeas petition. In the motion, petitioner requests that  
15 the court grant his amended habeas petition because respondent failed to dispute his claims in a  
16 timely manner. ECF No. 52. However, this is not an appropriate sanction for an untimely  
17 response as indicated in the court's order to show cause. See ECF No. 51 at 2 (indicating that  
18 monetary sanctions may be imposed). Therefore, petitioner's motion for summary judgment  
19 (ECF No. 52) is denied.

20 Good cause appearing, IT IS HEREBY ORDERED that:

- 21 1. The order to show cause issued on June 25, 2024 (ECF No. 51) is discharged.
- 22 2. Petitioner's request to file an untimely response to the third amended § 2254 petition  
23 and an extension of time to do so (ECF No. 53) is granted based on good cause shown.
- 24 3. Petitioner's motion for summary judgment (ECF No. 52) is denied.
- 25 4. Respondent is directed to file a response to petitioner's third amended habeas petition  
26 within sixty days from the date of this order. Any request for an extension of time is disfavored.
- 27 5. If the response to the habeas petition is an answer, petitioner's reply, if any, shall be  
28 filed and served within thirty days after service of the answer.

6. If the response to the habeas petition is a motion, petitioner's opposition or statement of non-opposition to the motion shall be filed and served within thirty days after service of the motion, and respondent's reply, if any, shall be filed and served within fourteen days thereafter.

Dated: August 6, 2024



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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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